

By: Oliverson

H.B. No. 2286

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the criminal consequences of engaging in certain
3 conduct with respect to certain firearm accessories and prohibiting
4 the enforcement of certain federal laws related to certain firearm
5 accessories.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Title 1, Government Code, is amended by adding
8 Chapter 2 to read as follows:

9 CHAPTER 2. ENFORCEMENT OF CERTAIN FEDERAL LAWS PROHIBITED

10 Sec. 2.001. DEFINITIONS. In this chapter:

11 (1) "Firearm" has the meaning assigned by Section
12 46.01, Penal Code.

13 (2) "Firearm suppressor" means any device designed,
14 made, or adapted to muffle the report of a firearm.

15 Sec. 2.002. STATE AND LOCAL GOVERNMENT POLICY REGARDING
16 ENFORCEMENT OF FEDERAL FIREARM LAWS. (a) This section applies to:

17 (1) the State of Texas, including an agency,
18 department, commission, bureau, board, office, council, court, or
19 other entity that is in any branch of state government and that is
20 created by the constitution or a statute of this state, including a
21 university system or a system of higher education;

22 (2) the governing body of a municipality, county, or
23 special district or authority;

24 (3) an officer, employee, or other body that is part of

1 a municipality, county, or special district or authority, including
2 a sheriff, municipal police department, municipal attorney, or
3 county attorney; and

4 (4) a district attorney or criminal district attorney.

5 (b) An entity described by Subsection (a) may not adopt a
6 rule, order, ordinance, or policy under which the entity enforces,
7 or by consistent action allows the enforcement of, a federal
8 statute, order, rule, or regulation that purports to regulate a
9 firearm suppressor if the statute, order, rule, or regulation
10 imposes a prohibition, restriction, or other regulation that does
11 not exist under the laws of this state.

12 (c) No entity described by Subsection (a) and no person
13 employed by or otherwise under the direction or control of the
14 entity may enforce or attempt to enforce any federal statute,
15 order, rule, or regulation described by Subsection (b).

16 (d) An entity described by Subsection (a) may not receive
17 state grant funds if the entity adopts a rule, order, ordinance, or
18 policy under which the entity enforces a federal law described by
19 Subsection (b) or, by consistent action, allows the enforcement of
20 a federal law described by Subsection (b). State grant funds for
21 the entity shall be denied for the fiscal year following the year in
22 which a final judicial determination in an action brought under
23 this section is made that the entity has violated Subsection (b).

24 (e) Any citizen residing in the jurisdiction of an entity
25 described by Subsection (a) may file a complaint with the attorney
26 general if the citizen offers evidence to support an allegation
27 that the entity has adopted a rule, order, ordinance, or policy

1 under which the entity enforces a federal law described by
2 Subsection (b) or that the entity, by consistent action, allows the
3 enforcement of a federal law described by Subsection (b). The
4 citizen must include with the complaint any evidence the citizen
5 has in support of the complaint.

6 (f) If the attorney general determines that a complaint
7 filed under Subsection (e) against an entity described by
8 Subsection (a) is valid, to compel the entity's compliance with
9 this section the attorney general may file a petition for a writ of
10 mandamus or apply for other appropriate equitable relief in a
11 district court in Travis County or in a county in which the
12 principal office of the entity is located. The attorney general may
13 recover reasonable expenses incurred in obtaining relief under this
14 subsection, including court costs, reasonable attorney's fees,
15 investigative costs, witness fees, and deposition costs.

16 (g) An appeal of a suit brought under Subsection (f) is
17 governed by the procedures for accelerated appeals in civil cases
18 under the Texas Rules of Appellate Procedure. The appellate court
19 shall render its final order or judgment with the least possible
20 delay.

21 SECTION 2. Section 46.05(a), Penal Code, as amended by
22 Chapters 155 (H.B. 1819) and 814 (H.B. 913), Acts of the 85th
23 Legislature, Regular Session, 2017, is reenacted and amended to
24 read as follows:

25 (a) A person commits an offense if the person intentionally
26 or knowingly possesses, manufactures, transports, repairs, or
27 sells:

1 (1) any of the following items, unless the item is
2 registered in the National Firearms Registration and Transfer
3 Record maintained by the Bureau of Alcohol, Tobacco, Firearms and
4 Explosives or otherwise not subject to that registration
5 requirement or unless the item is classified as a curio or relic by
6 the United States Department of Justice:

- 7 (A) an explosive weapon;
8 (B) a machine gun; or
9 (C) a short-barrel firearm;

- 10 (2) knuckles;
11 (3) armor-piercing ammunition;
12 (4) a chemical dispensing device;
13 (5) a zip gun;
14 (6) a tire deflation device; or

15 (7) ~~[a firearm silencer, unless the firearm silencer~~
16 ~~is classified as a curio or relic by the United States Department of~~
17 ~~Justice or the actor otherwise possesses, manufactures,~~
18 ~~transports, repairs, or sells the firearm silencer in compliance~~
19 ~~with federal law~~

20 ~~[(7)]~~ an improvised explosive device.

21 SECTION 3. Section 46.05(e), Penal Code, as amended by
22 Chapters 155 (H.B. 1819) and 814 (H.B. 913), Acts of the 85th
23 Legislature, Regular Session, 2017, is reenacted to read as
24 follows:

25 (e) An offense under Subsection (a)(1), (3), (4), (5), or
26 (7) is a felony of the third degree. An offense under Subsection
27 (a)(6) is a state jail felony. An offense under Subsection (a)(2)

1 is a Class A misdemeanor.

2 SECTION 4. Section 46.01(4), Penal Code, is repealed.

3 SECTION 5. To the extent of any conflict, this Act controls
4 over another Act of the 86th Legislature, Regular Session, 2019,
5 relating to nonsubstantive additions to and corrections in enacted
6 codes.

7 SECTION 6. An offense under Section 46.05(a)(7), Penal
8 Code, as added by Chapter 155 (H.B. 1819), Acts of the 85th
9 Legislature, Regular Session, 2017, may not be prosecuted after the
10 effective date of this Act. If on the effective date of this Act a
11 criminal action is pending for an offense described by that
12 subdivision, the action is dismissed on that date. However, a final
13 conviction for an offense described by that subdivision that exists
14 on the effective date of this Act is unaffected by this Act.

15 SECTION 7. This Act takes effect September 1, 2019.